

MT LEGISLATIVE HISTORY

Chapter 366 19 71

Bill H (S) 232

Original bill & hist. C

H. Committee on Public Health, Welfare + Safety S. Committee on Commerce + Labor

Hearing Date(s) Feb 20 ✓ C

Hearing Date(s) JAN 27 ✓ C

Feb 23 ✓ C

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Did this bill originate in an interim committee? Yes No

Committee

Report

BILL NO.	ENTERED COMM.	OUT OF COMM.	COMMITTEE ON COMMERCE AND LABOR					BE NOT CONCURRED IN
			DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CON-CURRED IN	BE CONCURRED IN AS AMENDED	
SB 53	1/11/71	1/15/71	X					
SB 57	1/11/71	1/27/71		X				
SB 59	1/11/71	1/22/71		X				
SB 67	1/13/71	1/27/71			X			
SB 78	1/13/71	1/15/71	X					
SB 104	1/15/71	1/27/71	X					
SB 105	1/15/71	1/27/71	X					
SB 106	1/15/71	1/27/71	X					
SB 107	1/15/71	1/27/71	X					
SB 108	1/15/71	1/27/71	X					
SB 109	1/15/71	2/3/71	X					
SB 110	1/15/71	1/27/71	X					
SB 111	1/15/71	1/27/71	X					
SB 115	1/15/71	1/29/71	X					
SB 116	1/15/71	1/27/71	X					
SB 120	1/15/71	1/27/71	X					
SB 121	1/15/71	1/27/71	X					
SB 127	1/16/71	1/27/71	X					
SB 133	1/18/71	1/27/71	X					
SB 143	1/16/71	1/22/71	RE-REFERRED TO COMMITTEE ON BANKING AND INSURANCE					
SB 146	1/16/71	1/22/71	RE-REFERRED TO COMMITTEE ON AGRICULTURE					
SB 209	1/21/71	2/1/71	X					
SB 232	1/21/71	1/27/71	X					

CONSIDERATION OF SENATE BILL 232: SENATOR SHEA was author of this bill. SENATOR SHEA MOVED THAT THIS BILL DO PASS. SECONDED BY SENATOR BERTSCHE. CARRIED.

RECONSIDERATION OF SENATE BILL 67: SENATOR BERTSCHE MOVED that the amendments be accepted by the committee. MOTION SECONDED BY SENATOR COCHRANE. CARRIED.
MOTION WAS MADE BY SENATOR HAFFERMAN THAT SB 67 DO PASS AS AMENDED. SECONDED BY SENATOR ROSELL. CARRIED.

Report of sub-committee:

SENATOR REARDON reported on SB 57.

SENATOR REARDON MOVED THAT SB 57 DO NOT PASS. SECONDED BY SENATOR SHEA. CARRIED.

SENATOR SIDERIUS MOVED TO ADJOURN. SUFFICIENT SECONDS. CARRIED.

ADJOURNMENT.

SENATOR GEORGE SIDERIUS, CHAIRMAN

SENATE BILL #306 -- SPONSOR: Senator Vainio discussed the bill. He said the State Welfare Department would establish standards. A fiscal note is left herewith. The cost for the biennium would be \$479,000,000 if this bill passed.

SENATE BILL #290 -- SPONSOR: Senator Vainio said this bill would give emergency assistance if needed and as provided by the federal act. The federal government would pick up the counties share and therefore take the burden off the counties.

PROPONENTS:

Francis Mitchell representing the Low Income Group spoke on behalf of both bills. He showed a huge chart which illustrated figures concerning different welfare programs. He passed around copies dealing with a Supreme Court decision. It is filed herewith.

Albert Gonzales, migrant construction worker, told his hard luck story.

Dorothea Davis, State Board of Health, showed food needs and costs of persons living on welfare. The cost of living has gone up 20% and food allowances have not. It is very difficult for a family to eat very well without great planning on little money they are given.

Ed Shubat, County Commissioners, supported these bills and said it was now in the second and third generation families that don't have the education to overcome their situation. Welfare payments haven't changed since 1967.

SENATE BILL #232 -- SPONSOR: Senator Shea said this bill was a result of the Governor's Advisory Council and so everyone agreed on it. This bill would deal and qualify a person for benefits resulting from occupational deafness. Occupational deafness must take at least 90 days of work to get this.

PROPONENTS:

Jim Murray, AFL-CIO, greatly supported this bill.

R. L. Rampy, Joint Council of Teamsters, greatly supported this bill.

Discussion followed. Some proposed amendments were passed around to the committee members. Under the current industrial accident board provisions, farmers are not included. There are just 4 states that now have this law. The burden of proof for establishing an occupational disease rests with the worker. He has to satisfy the Industrial Accident Board that the result was from his occupation. Tests are given to employees for pre-existing conditions before one is hired.

Witnesses were excused.

NAME

James R Shea

BILL No

232

ADDRESS

DATE

2/20/77

WHOM DO YOU REPRESENT?

Senator
DISTRICT 23

SUPPORT?

X

OPPOSE?

AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Senate Bill 232

is a Bill supported

by labor, industry and

the Industrial Accident Board,

I urge your Concurrence

James R Shea
Senator

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Lien moved that the title in SENATE BILL #246 BE AMENDED on line 14 after the word costs to add the following new material "and providing an effective date". Motion seconded and carried. Zody moved that SENATE BILL #246 BE CONCURRED IN AS AMENDED. Motion seconded and carried.

Lien moved that SENATE BILL #37 BE CONCURRED IN. Motion seconded and carried.

Zody moved that SENATE BILL #47 BE CONCURRED IN. Motion seconded and carried.

Much discussion was held on SENATE BILL #114. It was decided that the members liked the intent of the bill but they didn't like the way in which it was written. Lien moved that the proposed amendments be adopted but the figures changed to \$50,000, \$30,000, \$25,000, and \$20,000 respectively. Motion seconded and carried.

Since it was 10:30 a.m. and another committee meeting was scheduled in the room, the committee recessed until 11:30 a.m.

At 11:30 a.m. the committee resumed discussion on SENATE BILL #114.

Edland moved that Section (a) of the proposed amendments be included in the bill. Motion seconded and carried. He moved that the words "public health centers" on page 2 be stricken from the bill. Motion seconded and carried. Lee moved that SENATE BILL #114 BE CONCURRED IN AS AMENDED. Motion seconded and carried.

Since proposed amendments to SENATE BILL #18 had not been considered during the previous day's voting they were brought to the members attention and discussed. Lien moved that SENATE BILL #18 BE NOT CONCURRED IN. Motion seconded and carried.

Much discussion was held on SENATE BILL #232. Proposed amendments by Mr. Cardin and Mr. Marlow were discussed. Lee moved that the amendments be passed. Motion seconded and carried. Lee moved that SENATE BILL #232 BE CONCURRED IN AS AMENDED. Motion seconded and carried.

Zody moved that SENATE BILL #317 BE NOT CONCURRED IN. Lee made a substitute motion that SENATE BILL #317 BE TRANSFERRED TO THE APPROPRIATIONS COMMITTEE. Motion seconded and carried.

The meeting adjourned at 12:30 p.m.

MILLETT F. KELLER, CHAIRMAN


JUDY PRATT, SECRETARY

Amending clause.

Section 3. Section 66-2344, R.C.M., 1947, is amended to read as follows:

Registration by other states or authorities.

"66-2344. **Registration of persons registered by other states or authorities.** The board may, upon application therefor, and the payment of a fee of *twenty dollars (\$20)*, issue a certificate of registration as a professional engineer to any person who holds a certificate of qualification or registration issued to him by proper authority of the national bureau of engineering registration, or of any state or territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of this act and the rules established by the board."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are repealed.

Approved March 15, 1971.

CHAPTER NO. 365.

An Act Amending Section 25-604, R.C.M., 1947, Relating to Salaries of Deputies.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 25-604, R.C.M., 1947, is amended to read as follows:

Authority to fix compensation county deputies and assistants.

"Section 25-604. **County commissioners to fix salaries of deputies—limitations.** That the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant mentioned in the preceding section except as herein provided: provided the salary of no deputy or assistant shall be more than ninety percent (90%) of the salary of the officer under whom such deputy or assistant is serving; except as herein provided; where any deputy or assistant is employed for a period of less than one (1) year the compensation of such deputy or assistant shall be for the time so employed; provided, the rate of such compensation shall not be in excess of the rates now provided by law for similar deputies and assistants, except as herein provided; said boards of county commissioners shall likewise have the power to fix and determine the

Limitations.

Authority to determine number.

number of deputy county officers and allow to the several county officers a greater or less number of deputies or assistants, than the maximum number allowed by law, when in the judgment of the board of county commissioners such greater or less number of deputies is or is not needed for the faithful and prompt discharge of the duties of any county office; provided that after this act becomes effective the maximum salary rate per month of any deputy or assistant should not be less than the maximum salary allowed in any month of the year immediately previous to the date this act becomes effective. In fixing the compensation allowed the undersheriff the board must fix the same ninety-five percent (95%) of the salary of the officers under whom such undersheriff is serving; in fixing the compensation allowed the deputy sheriffs the board must fix the same at ninety percent (90%) of the salary of the officer under whom such deputy sheriff is serving, *except in counties of the first, second, or third class in which the board must fix the same at not less than seventy-five percent (75%) nor more than ninety percent (90%) of the salary of the officer under whom such deputy sheriff is serving; provided, however, that no deputy sheriff presently employed may be paid less than the compensation he is receiving on the effective date of this act.*"

Maximum salary rate.

Compensation of undersheriffs.

Deputy sheriffs.

Approved March 15, 1971.

CHAPTER NO. 366.

An Act to Provide Compensation for Loss of Hearing Resulting from Exposure to Industrial Noise.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is enacted a new section in lieu of former section 92-710, R.C.M., 1947, heretofore repealed, to be numbered section 92-710, R.C.M., 1947, the provisions of which shall be administered under the Industrial Accident Board as part of the Workmen's Compensation Act, as follows:

92-710. Regardless of other definitions of injury and time limitations imposed by this act, there shall be compensation awarded for occupational deafness as follows:

Compensation for deafness provided.

Definitions—
"occupational
deafness."

"Noise."

"Noisy
employment."

Losses of hearing—
frequencies.

Calculation—
percent of hearing
loss.

Measurement.

Determination for
compensation.

Determination of
hearing impairment.

Binaural percentage
of loss.

Deductions.

(1) "Occupational deafness" means permanent partial or permanent total loss of hearing of one or both ears due to prolonged exposure to noise in employment. "Noise" means sound capable of producing occupational deafness. "Noisy employment" means employment in the performance of which an employee is subjected to noise.

(A) Losses of hearing due to industrial noise for compensation purposes shall be confined to the frequencies of 500, 1000, and 2000 cycles per second. Loss of hearing ability for frequency tones above 2000 cycles per second is not to be considered as constituting disability for hearing.

(B) The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1000 and 2000 cycles per second. Pure tone air conduction audiometric instruments, approved by nationally recognized authorities in this field, shall be used for measuring hearing loss. If the losses of hearing average 26 decibels or less in the three frequencies, as measured under ISO Standard 1964, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 94 decibels or more in the three frequencies, as measured under ISO Standard 1964, then the same shall constitute and be total or 100 per cent compensable hearing loss.

(C) In measuring hearing impairment the lowest measured losses in each of the three frequencies shall be added together and divided by three to determine the average decibel loss. For every decibel of loss exceeding 24 decibels an allowance of one and one-half percent ($1\frac{1}{2}\%$) shall be made up to the maximum of one hundred percent (100%), which is reached at 94 decibels.

(D) In determining the binaural percentage of loss, the percentage of impairment in the better ear shall be multiplied by five (5). The resulting figure shall be added to the percentage of impairment in the poorer ear and the sum of the two divided by six (6). The final percentage shall be representative of the binaural hearing impairment.

(E) Before determining the percentage of hearing impairment, in order to allow for the average amount

of hearing loss from non-occupational causes found in the population at any given age, there shall be deducted from the total average decibel loss, one-half decibel for each year of the employee's age over forty at the time of last exposure to industrial noise.

(F) No consideration shall be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid.

(2) No benefits shall be payable for temporary total or temporary partial disability under this act for loss of hearing due to prolonged exposure to noise.

(3) An employee who because of occupational deafness is transferred by his employer to other employment and thereby sustains actual wage loss, shall be compensated at the rate provided in section 92-703, Revised Codes of Montana, 1947, as amended, not exceeding three thousand five hundred dollars (\$3,500) in the aggregate from all employers. "Time of injury", "incurred such injury", "date of injury" in such case shall be the date of wage loss.

(4) Subject to the limitations herein contained, there shall be payable for total occupational deafness of one ear, forty (40) weeks of compensation; for total occupational deafness of both ears, two hundred (200) weeks of compensation; and for partial occupational deafness, compensation shall bear such relation to that named herein as disabilities bear to the maximum disabilities herein provided.

In cases covered by this subsection, "time of injury", "incurred such injury" or "date of injury" shall be exclusively the date of occurrence of any of the following events to an employee:

(a) Transfer because of occupational deafness to non-noisy employment by an employer whose employment has caused occupational deafness;

(b) Retirement;

(c) Termination of the employer-employee relationship;

(d) Layoff, provided the layoff is complete and continuous for one year;

Exclusion—
hearing aid.

No benefits for
temporary loss.

Compensation—
wage loss.

Rates of
compensation.

Date of occurrence
defined.

Six months
limitations—filing.

(e) No claim under this subsection shall be filed, however, until six (6) consecutive months of removal from noisy employment after the time of injury except that under subparagraph (d), such six (6) consecutive months period may commence within the last six (6) months of layoff.

Limitation
provisions.

(5) The limitation provisions in this act shall control claims arising under this subsection. Such provisions shall run from the first date upon which claim may be filed, or from the date of subsequent death, provided that no claim shall accrue to any dependent unless an award has been issued or liability admitted.

Claimant must
have worked ninety
days.

(6) No payment shall be made to an employee under this section unless he shall have worked in noisy employment for a total period of at least ninety (90) days for the employer from whom he claims compensation.

Credit of payments.

(7) Any amount paid to an employee under this section by an employer shall be credited against compensation payable by any employer to such employee for occupational deafness under subsections (3) and (4). No employee shall in the aggregate receive greater compensation from any or all employers for occupational deafness than that provided in this section for total occupational deafness.

Occupational
deafness
distinguished.

(8) Occupational deafness as herein provided is distinguished from traumatic loss of hearing which is governed by the specific loss schedule hereinabove.

Liability of
employer.

(9) An employer shall become liable for the entire occupational deafness to which his employment has contributed; but if previous deafness is established by hearing test or other competent evidence, whether or not the employee was exposed to noise within the six (6) months preceding such test, he shall not be liable for previous loss so established nor shall he be liable for any loss for which compensation has previously been paid or awarded.

Exposure.

(10) No claim shall be filed, however, unless the employee is exposed eight (8) hours daily and for a period of at least ninety (90) days as above required to noise intensity levels above 100 decibels.

Effective January
1, 1972.

(11) This act shall become effective January 1, 1972.

Approved March 15, 1971.

CHAPTER NO. 367.

An Act Amending Section 80-2210, R.C.M., 1947, Relating to Recommendation of Sentence of Persons Under the Age of Twenty-one Years Who Had Been Sentenced to Prison and to the Commitment of Such Person to the Department of Institutions and to the Transfer of Such Person to a Juvenile Facility by Providing that Prisoners of the State Prison of the Age of Twenty-Five or Younger May Be Transferred from the Prison to the Swan River Youth Forest Camp and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 80-2210, R.C.M., 1947, is hereby amended to read as follows:

Amending clause.

"80-2210. (1) Upon the application of a *person* under the age of twenty-one (21) years who has been sentenced to the state prison, or upon the application of his parents or guardians, the governor may, after consulting with the department of institutions and with the approval of the board of pardons, commute the sentence by committing such *person* to the department of institutions during his minority or until sooner placed or discharged.

Commutation of
sentence—person
under 21.

Commitment to
department of
institutions.

(2) If such *person's* behavior after being committed to the department of institutions indicates that he is not a proper person to reside at one of the department's juvenile facilities, the governor after consulting with the department of institutions with the approval of the board of patrons, may revoke the commutation and return him to the state prison to serve out his unexpired term, and the time spent by him at one of the department juvenile facilities or while a refugee from one of the department juvenile facilities, shall not be considered as a part of his original sentence.

Revocation for
behavior.

Return to prison.

Upon recommendation of the warden and with the approval of the department of institutions a *person* under the age of twenty-one (21) years, who has been sentenced to the state prison, may be transferred to any juvenile facility under the jurisdiction and control of the department. *Provided, further, however, that upon recommendation of the warden and approval of a person sentenced to the state prison, or application of a person sentenced to the state prison and approval of the warden, and with the approval*

Transfer to
juvenile facility.

Transfer to Swan
River Youth Forest
Camp—prisoners
under 25.